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## BOOK REVIEWS.

COMMENTARIES ON COLONIAL AND FOREIGN LAWS. By William Burge. New Edition edited by Alexander Wood Renton and George Grenville Phillimore. In six volumes. Vols. 1-3. London: Sweet and Maxwell, Limited; Stevens and Sons, Limited. 1910. pp. xxxviii, 420; xlv, 629; xlix, 987.

A new edition of Burge's Colonial Law has long been desired. For nearly half a century the work has been out of print, yet it has been a mine of information as to the nature of the laws of British Colonies and as to the rules which have been adopted for solving their conflicts.

Burge was not only learned in the nature of the various systems of Colonial Law, but he was one of the most thorough students and able lawyers who has ever written on that difficult topic, the Conflict of Laws. Indeed, up to the time of Dicey his work was the authority on that topic in England; and in spite of excellent points in the treatises of Westlake, Phillimore, and others, his suggestions remain the most acute and lawyerlike on the topic, with the exception of Professor Dicey's admirable work.

The main value of this treatise consists in its collection of actual laws of all civilized countries on the points covered, and also a summary of the doctrines held in those countries upon the Conflict of Laws. It is then as a store-house of information as to the actual doctrines of substantive law and of the Conflict of Laws that we welcome the new edition of this work. The editors are competent, and have been assisted by a corps of able lawyers taken from, or familiar with, the law in various portions of the world. If the law of the United States is somewhat inadequately dealt with, we can hardly be surprised; for to deal with it as fully as the colonial law is dealt with would mean to examine the statutes and decisions of each of our fifty jurisdictions, and would be far beyond even the greatly extended scope of this new edition. American lawyers will not feel the need of a fuller discussion of the law of the United States; but they will on the other hand find of the utmost value the admirable statement of the laws of France, Germany, and the British Colonies. They will find here, in short, all that will usually be essential to know on the topics covered in this work.

Volume one includes an admirable statement of the nature and history of the various systems of law prevalent in the civilized world, and particularly of the laws in the British Colonial Empire. The volume is prefaced by a short memoir of William Burge. Most of the material in this volume is new. The second volume deals with Domicile and Nationality, and with some cases of Status; Marriage and Divorce forming the subjects of the third volume. Three volumes more are to follow and complete the work.

Regarded, as has already been pointed out, as a store-house of information as to the actual law of the various countries on these subjects, the work serves its purpose admirably; and it would be difficult to improve upon it in accuracy or conciseness of statement, or, generally speaking, in knowledge and understanding of the laws described. The editors follow Burge's practice of stating the actual law of the different countries and then the principles adopted for solving the Conflict of Laws. In lucidity of arrangement the new edition is a great improvement on the old. For the purposes of an American lawyer, however, the actual discussion of general principles is not altogether to be depended on. That part of the work which involves the discussion of the Conflict of Laws seems from internal evidence to have been left in the able hands of Mr. Phillimore, whose scholarship and long familiarity with the subject renders him of course competent, and his opinion is worthy of all consideration. Unfortunately, however, Mr. Phillimore belongs to that school of English scholars who are trained chiefly in the civil law, and who discuss the Conflict

of Laws, or, as he prefers to call it, Private International Law, rather from the point of view of Laurent and von Bar than from the point of view of Dicey and Story and of the English and American courts. In short, for an English or American lawyer, the Conflict of Laws must be regarded as a branch of the common law, to be determined by the practice of the common-law courts, like any other branch of the common law; and the naturally different views of courts and jurisdictions trained in continental law can hardly be received as illuminating. Such portions of the work, therefore, as involve an attempt to discuss the present state of the Conflict of Laws in England and America is not altogether to be regarded as authoritative.

But while the American and English lawyer will hardly find in this work an authoritative treatise on the Conflict of Laws, that fact does not in the least diminish its extreme usefulness as a book of reference for foreign law, whether that foreign law be the law of Marriage or other personal status, or the doctrines of Private International Law, as applied in foreign countries. In this, the principal subject of the work, Burge's treatise has no rival, and must fill a most important place in the library of every lawyer whose practice extends beyond the narrow limits of his own country. And in this respect the work has been admirably edited and modernized. It is full of references to the decisions of continental courts, mediæval as well as modern, and to the writers of treatises, modern as well as mediæval. The inaccuracy and inadequacy of its treatment of American authorities has been pointed out, but it is hardly a defect to an American lawyer, who will go to the book for information on foreign law; and he will certainly find what he needs.

J. H. B.

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INTRODUCTION TO THE SCIENCE OF LAW. Systematic Survey of the Law and Principles of Legal Study. By Karl Gareis. Translated from the third, revised edition of the German. By Albert Kocourek. With an Introduction by Roscoe Pound. Boston: The Boston Book Company. 1911. pp. xxix, 375.

This is the second of the Jurisprudence and Philosophy of the Law Series published by the Boston Book Company, the first being Korkunov's "Theory of Law" translated by Judge Hastings. A recent review of the latter translation opens with the following noteworthy statement: "With the exception of Pulszky's Theory of Law and Civil Society, this is the only modern account of Continental juristic thought accessible to the reader of English."<sup>1</sup> If, then, Gareis' third edition is of value to the Anglo-American reader, and if the translation is well done, Professor Kocourek has rendered our lawyers a service of special interest.

The work in the original, which belongs to the class of Arndts', Kohler's, and Merkel's *Encyklopädie*, is intended to be read as a text-book on German Law in connection with lectures in the introductory course on law in a German university. It is a juristic survey and aims at a systematic review of the law as a whole. After a brief introduction pointing out the object of a survey of the law, the author in the first part deals at length with the nature of law and of the sources of law. The bulk of the book, however, consists of a classification of (A) Civil or Private Law and (B) Public Law. Such a treatment might easily fail for want of concreteness, but in common with other recent German texts there is no want of practical application, for the writer never wanders far from the German Civil Code. This has the weakness of eliminating the comparative side of continental law, but to those of us who are willing to read thoughtfully and make our comparisons for ourselves, it is difficult to find a

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<sup>1</sup> 10 Col. L. Rev. 585.